IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Appeal No. 16 of 2005
in
Notice of Motion No. 157 of 2004
in
Writ Petition No.66 of 2004

Shri Pirchand Misrimal Bhansali ..Appellant

vs.

Samarthmal lHajarimal Mehta ..Respondent

Mr.Ravi Kadam i/b Kartikeya & Associates for appellant
Ms.Usha Purohit for respondent.

CORAM: A.P.SHAH &
S.J.VAZIFDAR JJ.
1st February,2005

P.C.

1. We have heard the learned Counsel for the respective parties.

2. By the impugned order, the learned single Judge has directed the Receiver to appoint the plaintiff as his agent in respect of the premises without security and royalty.

3. We have gone through the entire records. Perused the photographs of the premises. In our opinion, it is not possible to believe the story of the appellant that he was in possession of the suit room. His only claim was that he was in possession

of the parking spaces and he enclosed those parking spaces. It is clearly seen from the photographs that it is impossible to park the car inside the suit premises. It is also pertinent to note that no evidence of possession was produced by the appellant before the trial Court. The so-called possession receipt issued by the builder is sought to be produced for the first time in this appeal.

4. In our opinion, the view taken by the learned single Judge is a plausible view and does not require any interference in appeal. In any event, it would be open for the appellant to file a suit on title and obtain appropriate orders.

5. Appeal is accordingly dismissed.

On a request of Mr.Kadam, the learned counsel for the appellant, the operation of the order is stayed for a period of four weeks from today.